

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 197

Introduced by Fulton, 29.

Read first time January 12, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to the Nebraska educational savings plan trust;
2 to amend sections 85-1803 and 85-1807, Reissue Revised
3 Statutes of Nebraska; to create a fund and provide for
4 its use; to authorize fund transfers, and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1803, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 85-1803 The Nebraska educational savings plan trust shall
4 be operated with no General Fund appropriations. Money from the
5 trust transferred from the program fund or endowment fund to the
6 administrative fund in an amount authorized by an appropriation
7 from the Legislature shall be utilized to pay for the costs
8 of administering, operating, and maintaining the trust, to the
9 extent permitted by section 529 of the Internal Revenue Code. The
10 administrative fund shall not be credited with any money other
11 than money transferred from the program fund or endowment fund
12 in an amount authorized by an appropriation by the Legislature
13 or any interest income earned on the balances held in the
14 administrative fund. The State Treasurer may transfer funds from
15 the administrative fund to the endowment fund.

16 Sec. 2. Section 85-1807, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 85-1807 (1) The State Treasurer shall deposit money
19 received by the Nebraska educational savings plan trust into three
20 funds: The program fund, the endowment fund, and the administrative
21 fund. The State Treasurer shall deposit money received by the
22 trust into the appropriate fund. The State Treasurer and Accounting
23 Administrator of the Department of Administrative Services shall
24 determine the state fund types necessary to comply with section 529
25 of the Internal Revenue Code and state policy. The money in the

1 funds shall be invested by the state investment officer pursuant to
2 policies established by the Nebraska Investment Council. All money
3 paid by participants in connection with participation agreements
4 and all investment income earned on such money shall be deposited
5 as received into separate accounts within the program fund. All
6 money received by the trust from the proceeds of gifts and other
7 endowments for the purposes of the trust and all investment
8 income earned on such money shall be deposited as received
9 into the endowment fund. The program fund, administrative fund,
10 and endowment fund shall be separately administered. Any gifts,
11 grants, or donations to the trust for deposit to the endowment
12 fund shall be a grant, gift, or donation to the state for the
13 accomplishment of a valid public eleemosynary, charitable, and
14 educational purpose and shall not be included in the income of the
15 donor for state income tax purposes. Contributions to the trust
16 made by participants or received in the form of gifts, grants, or
17 donations may only be made in the form of cash. All funds generated
18 in connection with participation agreements shall be deposited into
19 the appropriate accounts within the program fund. A participant
20 or beneficiary shall not provide investment direction regarding
21 program contributions or earnings held by the trust.

22 (2) Each beneficiary under a participation agreement
23 shall receive a pro rata interest in the endowment fund each
24 year after any transfers to the administrative fund have been
25 made. The amount received from the endowment fund shall be in the

1 ratio that the principal amount paid by the participant under the
2 participation agreement and investment income earned to date under
3 the agreement bears to the principal amount of all money, funds,
4 and securities then held in the program fund, but not to exceed the
5 amount which, in combination with the current payment due from the
6 program fund, equals the beneficiary's higher education costs for
7 the current period of enrollment. Money accrued by participants in
8 the program fund may be used for payments to any institution of
9 higher education. No rights to any money derived from the endowment
10 fund shall exist if money payable under the participation agreement
11 is paid to an institution of higher education which is not a
12 Nebraska institution of higher education.

13 (3) The Nebraska Educational Savings Plan Operations Cash
14 Fund is created. The fund shall be used to pay the operational
15 costs associated with the Nebraska educational savings plan trust.
16 An amount not to exceed the appropriation provided by the
17 Legislature may be transferred from the administrative fund to
18 the Nebraska Educational Savings Plan Operations Cash Fund within
19 five days after the beginning of each fiscal year. In addition,
20 the State Treasurer shall transfer from the administrative fund
21 to the State Investment Officer's Cash Fund an amount to cover
22 reasonable expenses incurred for investment management of the
23 Nebraska educational savings plan trust. The State Treasurer shall
24 annually report to the budget division of the Department of
25 Administrative Services and to the Legislative Fiscal Analyst the

1 amounts transferred during the previous fiscal year. Any money
2 in the Nebraska Educational Savings Plan Operations Cash Fund
3 available for investment shall be invested by the state investment
4 officer pursuant to the Nebraska Capital Expansion Act and the
5 Nebraska State Funds Investment Act.

6 Sec. 3. Original sections 85-1803 and 85-1807, Reissue
7 Revised Statutes of Nebraska, are repealed.